

Applicant's or agent's file reference 2553200/RSH/PLB	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416).	
International Application No. PCT/AU02/00996	International Filing Date (day/month/year) 26 July 2002	Priority Date (day/month/year) 31 July 2001
International Patent Classification (IPC) or national classification and IPC Int. Cl. ⁷ A61B 17/12, 17/122		
Applicant RESEARCH SURGICAL PTY LTD et al		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 4 sheets, including this cover sheet.
- ☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheet(s).

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☒ Certain observations on the international application

Date of submission of the demand 21 January 2003	Date of completion of the report 10 November 2003
Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaustalia.gov.au Facsimile No. (02) 6285 3929	Authorized Officer SWAYAM CHINTAMANI Telephone No. (02) 6283 2202

I. Basis of the report**1. With regard to the elements of the international application:***

- ☒ the international application as originally filed.
- ☐ the description, pages , as originally filed,
pages , filed with the demand,
pages , received on with the letter of
- ☐ the claims, pages , as originally filed,
pages , as amended (together with any statement) under Article 19,
pages , filed with the demand,
pages , received on with the letter of
- ☐ the drawings, pages , as originally filed,
pages , filed with the demand,
pages , received on with the letter of
- ☐ the sequence listing part of the description:
pages , as originally filed
pages , filed with the demand
pages , received on with the letter of

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.¹
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/fig.

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. Statement**

Novelty (N)	Claims 4-6, 8-16	YES
	Claims 1-3, 7	NO
Inventive step (IS)	Claims	YES
	Claims 1-16	NO
Industrial applicability (IA)	Claims 1-16	YES
	Claims	NO

2. Citations and explanations (Rule 70.7)

The following documents identified in the International Search Report have been considered for the purposes of this report:

D1 US 4112944
D2 US D 234204
D3 SU 735245
D4 US 4346869
D5 CA 2183998
D6 US 4390019
D7 US 4835824

Novelty (N) Claims 1-16

Claims 1-3 and 7 are not novel when compared to each of D1-D7. Each of these documents discloses all the features of each of these claims. Claims 4-6 and 8-16, so far as they are clear, are novel. None of the citations discloses an arterial clamp, formed as a one-piece moulding, with posts extending in a plane transverse to the plane of the clamping arms.

Inventive Step (IS) Claims 1-16

Claims 1-3 and 7 are not inventive for the reasons given above. The posts extending in a plane transverse to the plane of the clamping arms is considered as a standard design feature in the art of surgical clamps. For example, surgical clamps (such as tongs) with a bent distal clamping portion are well known in the surgery. Claims 4-6 and 8-16 are not inventive because they add only features which are common general knowledge in the art and which therefore cannot contribute patentable ingenuity.

VIII. Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

1. Claim 6 is not clear because the term "the perpendicular" has no clear prior reference. The reference surface of the perpendicular is not clear from the claims.
2. In claim 8, it is not clear how the opposed clamping posts are arranged in relation to the clamping arms. The claim makes no reference to the clamping arms.